

Senate File 335 - Introduced

SENATE FILE 335

BY TAYLOR

A BILL FOR

1 An Act concerning matters relating to the transportation of
2 railroad workers and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **321.449A Rail crew transport**
2 **drivers.**

3 1. A driver of a motor vehicle operated for hire which is
4 designed to transport seven or more persons but fewer than
5 sixteen persons including the driver and is used to transport
6 railroad workers to or from their places of employment or
7 during the course of their employment is subject to the
8 following limitations:

9 a. The driver shall not drive such a vehicle more than ten
10 hours following eight consecutive hours of uninterrupted rest.

11 b. The driver shall not drive such a vehicle for any period
12 after having been on duty for fifteen hours following eight
13 consecutive hours of uninterrupted rest.

14 c. The driver shall not accept a call for service from the
15 driver's employer during a period of uninterrupted rest.

16 2. For purposes of this section, the following definitions
17 apply:

18 a. "*Employer*" means a railroad worker transportation
19 company, as defined in section 327F.39, for whom the driver
20 performs a service, either for wages or as an independent
21 contractor.

22 b. "*On duty*" means all time from the time a driver begins
23 work or is required to be ready to work until the time the
24 driver is relieved from work and all responsibility for
25 performing work, whether or not the driver is compensated for
26 all of the time. A driver may drive more than one assigned
27 trip, as long as the trip falls within the on-duty period. A
28 driver "*begins work*" when the driver enters a transport vehicle
29 to begin a trip assignment and is not "*relieved from work*" until
30 the driver has exited the transport vehicle for the final time.

31 c. "*Uninterrupted rest*" means that the employer shall not
32 communicate with the driver by telephone, pager, or in any
33 other manner that could reasonably be expected to disrupt the
34 driver's rest.

35 3. A person who violates this section commits a simple

1 misdemeanor punishable as a scheduled violation under section
2 805.8A, subsection 13, paragraph "b".

3 Sec. 2. Section 327F.39, Code 2013, is amended to read as
4 follows:

5 **327F.39 Transportation of railroad employees and equipment.**

6 1. *Definitions.* As used in this section, unless the context
7 otherwise requires:

8 a. "Administrator" means the department's administrator for
9 rail and water, or the administrator's designee.

10 ~~a.~~ b. "Department" means the state department of
11 transportation.

12 ~~b.~~ c. "Director" means the director of transportation.

13 ~~c. "Administrator" means the department's administrator for~~
14 ~~rail and water, or the administrator's designee.~~

15 d. "Driver" means a driver, as defined in 49 C.F.R. § 390.5,
16 who operates a motor vehicle owned or operated by a railroad
17 worker transportation company.

18 e. "Employee" means an employee, as defined in 49 C.F.R.
19 § 390.5, who is a driver for a railroad worker transportation
20 company.

21 f. "Employer" means as defined in 49 C.F.R. § 390.5,
22 and includes a railroad worker transportation company for
23 whom a driver performs a service, either for wages or as an
24 independent contractor.

25 ~~d.~~ g. "Motor vehicle" means a vehicle which is
26 self-propelled and designed primarily for highway use, and
27 which may or may not be equipped with retractably flanged
28 wheels for operation on railroad tracks.

29 ~~e.~~ h. "Owner" means a person having the lawful use or
30 control of a motor vehicle as holder of the legal title of the
31 motor vehicle or under contract or lease or otherwise.

32 ~~f.~~ i. "Place of employment" means that location where one
33 or more workers are actually performing the labor incident to
34 their employment.

35 j. "Railroad worker transportation company" means a person,

1 other than a railroad corporation, organized for the purpose of
 2 or engaged in the business of transporting, for hire, railroad
 3 workers to or from their places of employment or in the course
 4 of their employment in motor vehicles designed to carry seven
 5 or more persons but fewer than sixteen persons including the
 6 driver.

7 ~~g.~~ k. "Worker" means an individual employed for any period
 8 in work for which the individual is compensated, whether
 9 full-time or part-time.

10 2. *Compliance with regulations.* Motor vehicles, as defined
 11 in section 321.1, which are subject to registration and
 12 which are provided by a railroad ~~company~~ corporation and used
 13 to transport railroad workers to and from their places of
 14 employment or during the course of their employment shall:

15 a. Meet all state and federal regulations pertaining to
 16 safe construction and maintenance of motor vehicles, including
 17 their coupling devices, lighting devices and reflectors, motor
 18 exhaust systems, rear-vision mirrors, service and parking
 19 brakes, steering mechanisms, tires, warning and signaling
 20 devices, and windshield wipers.

21 b. Meet all state and federal requirements for safety
 22 devices, first-aid kits, and sidewalls, canopies, tailgates, or
 23 other means of retaining freight safely.

24 c. Be operated in compliance with all state and federal
 25 regulations pertaining to driving, loading, carrying freight
 26 and employees, road warning devices, and the transportation of
 27 flammable material.

28 3. *Motor vehicle maintained in safe manner.* A motor
 29 vehicle provided by a railroad ~~company~~ corporation and used
 30 to transport one or more workers to and from their places of
 31 employment or during the course of their employment shall be
 32 maintained in a safe manner at all times, whether or not used
 33 upon a public highway.

34 a. An employer who owns or operates a motor vehicle for
 35 the transportation of railroad workers shall inspect the motor

1 vehicle or cause the motor vehicle to be inspected annually in
2 compliance with 49 C.F.R. § 396.17, as amended, by a person
3 qualified to perform the inspection as provided in 49 C.F.R. §
4 396.19, as amended. In addition, the employer shall require
5 each employee who drives a motor vehicle for the transportation
6 of railroad workers to complete a written daily report as
7 provided in 49 C.F.R. § 396.11, as amended.

8 b. An employer shall establish a maintenance and repair
9 program that provides for weekly inspection of each motor
10 vehicle operated by its employees for the transportation of
11 railroad workers to assure overall cleanliness of the motor
12 vehicle, that parts and accessories are in safe and operable
13 condition, and that the motor vehicle is equipped with all of
14 the following in good repair:

15 (1) Tires with sufficient tread as prescribed in 49 C.F.R. §
16 393.75, as amended.

17 (2) A fully inflated spare tire.

18 (3) A secure location for personal baggage, including
19 proper baggage restraints.

20 (4) Fully operational seatbelts for all passenger seats.

21 (5) If required by weather conditions, traction devices,
22 studs, or chains.

23 (6) A heater and air conditioner that are properly working
24 with properly working fans.

25 (7) An emergency road kit that contains, at a minimum, a
26 tire-inflating aerosol can, flares or reflective triangles,
27 jumper cables, and a fire extinguisher.

28 (8) A readily available first aid kit in compliance with
29 29 C.F.R. § 1910.151, as amended, which includes the articles
30 described in appendix A of that section.

31 c. A motor vehicle used for the transportation of railroad
32 workers shall be equipped with an operable amber flashing light
33 mounted on the rear one-third portion of the roof in order to
34 provide warning to other motorists whenever the vehicle has
35 slowed or stopped on or near the roadway.

1 d. A motor vehicle used for the transportation of railroad
2 workers shall not be operated in a condition that is likely to
3 cause an accident or a mechanical breakdown.

4 e. An employer shall maintain records relating to the
5 maintenance and repair program for each motor vehicle operated
6 by its employees for the transportation of railroad workers.
7 The records shall include:

8 (1) Identifying information for the motor vehicle,
9 including the vehicle identification number; make, model,
10 and year of manufacture; and the railroad corporation's
11 identification number if provided.

12 (2) Owner information if the employer is not the owner of
13 the vehicle.

14 (3) The history of inspections, repairs, and maintenance
15 that describes each activity and the date the activity was
16 performed.

17 f. Records required under this section shall be maintained
18 by an employer at its principal place of business for one year.
19 If a motor vehicle leaves the employer's control, the records
20 pertaining to that vehicle shall be maintained by the employer
21 at the employer's principal place of business for six months.

22 g. An employer and the employer's officers, agents, and
23 employees who are involved with the inspection or maintenance
24 of motor vehicles shall comply with the employer's maintenance
25 and repair program as provided under this section.

26 4. Heating system. The director shall adopt rules requiring
27 a motor vehicle, as defined in section 321.1, which is subject
28 to registration and which is provided by a railroad ~~company~~
29 corporation and used to transport railroad workers to and
30 from their places of employment or during the course of
31 their employment to be provided with a safe heating system to
32 maintain a reasonable comfort level in those spaces of the
33 vehicle where the workers are required to ride.

34 5. Rest periods for drivers.

35 a. An employer shall not require a driver to operate a

1 motor vehicle in violation of section 321.449A. An employer
2 may require a period of uninterrupted rest for a driver at
3 any time. The period of uninterrupted rest shall not be less
4 than eight hours, and shall be at least ten hours following an
5 on-duty period of more than eight hours. An employer shall
6 clearly communicate to a driver when a period of uninterrupted
7 rest is to begin.

8 b. A railroad corporation shall not require a driver to
9 operate a motor vehicle in violation of section 321.449A or
10 this subsection.

11 c. For purposes of this subsection, "uninterrupted rest" and
12 "on duty" mean the same as defined in section 321.449A.

13 6. Driver qualifications.

14 a. An employer shall maintain a driver qualification
15 file for each employee who drives a motor vehicle for the
16 transportation of railroad workers. The driver qualification
17 file shall include all of the following:

18 (1) A certificate of physical examination signed and dated
19 within the previous two years by a physician licensed under
20 chapter 148 certifying that the employee is physically able to
21 operate a motor vehicle.

22 (2) Documentation that the employer has reviewed the
23 driver's driving record within the previous twelve months.

24 (3) Documentation relating to the driver's violation of any
25 applicable motor vehicle laws or ordinances.

26 (4) Other documentation related to the driver's
27 qualification or ability to drive a motor vehicle.

28 (5) The driver's application for employment as provided by
29 49 C.F.R. § 391.21, as amended.

30 (6) References from previous employers, if required by the
31 current employer.

32 (7) A copy of the driver's current class D driver's license
33 or an equivalent driver's license.

34 b. A person shall be disqualified from driving for an
35 employer if the driver is convicted of two or more serious

1 traffic violations committed within a three-year period in this
 2 state or another state. For purposes of this section, "serious
 3 traffic violation" means any violation committed while operating
 4 a motor vehicle if the violation resulted in the suspension
 5 or revocation of the person's driver's license, or any of the
 6 following violations, whether or not the violation resulted in
 7 license suspension or revocation:

8 (1) A violation of chapter 321J or an equivalent law of
 9 another state.

10 (2) A seat belt violation.

11 (3) A violation of commercial motor vehicle laws.

12 (4) A speeding violation for a speed of fifteen miles per
 13 hour or more over the legal limit.

14 (5) Negligent homicide.

15 (6) Using a motor vehicle in the commission of a felony.

16 (7) Evading arrest.

17 (8) Using a motor vehicle to flee law enforcement.

18 (9) Careless driving.

19 (10) Prohibited passing of another vehicle.

20 (11) Unlawfully passing a stopped school bus.

21 (12) Failure to obey an official traffic-control signal or
 22 device.

23 (13) Failure to obey a railroad crossing gate.

24 (14) Driving while the person's driver's license or
 25 operating privileges are suspended, canceled, or revoked.

26 (15) Driving the wrong way on a one-way street.

27 c. Prior to allowing a person to perform the duties of
 28 a driver, an employer shall require the person to submit to
 29 testing for alcohol and controlled substances as provided in
 30 49 C.F.R. pts. 40 and 382, as amended. A person shall not be
 31 allowed to perform the duties of a driver unless the alcohol
 32 test result for the person indicates an alcohol concentration
 33 of zero and the controlled substances test result from a
 34 medical review officer, as defined in 49 C.F.R. § 40.3, as
 35 amended, indicates a verified negative.

1 d. (1) As soon as practicable following an accident
2 involving a motor vehicle owned or operated by an employer,
3 the employer shall test each surviving driver for alcohol and
4 controlled substances if any of the following apply:

5 (a) The accident involved the death of a person.

6 (b) The driver received a citation for a moving violation
7 arising from the accident and the accident involved bodily
8 injury to a person who immediately received medical treatment
9 after the accident.

10 (c) The driver received a citation for a moving violation
11 arising from the accident and the accident involved disabling
12 damage to one or more motor vehicles involved in the accident.

13 (2) Testing for the presence of alcohol shall be conducted
14 immediately following the accident or no later than eight hours
15 after the accident. Testing for the presence of controlled
16 substances shall be conducted immediately following the
17 accident or no later than thirty-two hours after the accident.
18 The test results shall be submitted to the department. The
19 employer shall maintain a record of the test results for five
20 years following the date of the accident.

21 e. Notwithstanding any other provision, a person shall be
22 disqualified from driving for the employer upon the occurrence
23 of any of the following:

24 (1) The person's alcohol and controlled substances test
25 results are not in compliance with paragraph "c".

26 (2) The person refuses to provide a specimen for alcohol
27 testing, testing for controlled substances, or both.

28 (3) The person submits an adulterated specimen, a dilute
29 positive specimen, or a substituted specimen for an alcohol
30 test or a test for controlled substances.

31 f. Testing of an employee for the presence of alcohol or a
32 controlled substance under this subsection shall be performed
33 in accordance with section 730.5.

34 7. Financial liability coverage.

35 a. An employer shall maintain financial liability coverage

1 in the amount of one million dollars per person, up to a
 2 maximum of five million dollars, for each motor vehicle owned
 3 or operated by the employer to transport railroad workers.

4 b. An employer shall maintain uninsured and underinsured
 5 motor vehicle coverage in the amount of one million dollars
 6 per motor vehicle occupant, up to a maximum of five million
 7 dollars, for each motor vehicle owned or operated by the
 8 employer to transport railroad workers.

9 ~~5.~~ 8. Rule violations. When the administrator finds that
 10 a motor vehicle used to transport workers to and from their
 11 places of employment or during the course of their employment
 12 ~~violates~~ is not in compliance with this section or a rule
 13 adopted under this section, the administrator shall make,
 14 enter, and serve upon the owner of the motor vehicle an order
 15 as necessary to protect the safety of workers transported in
 16 the motor vehicle. The administrator may direct in the order,
 17 as a condition to the continued use of the motor vehicle for
 18 transporting workers to and from their places of employment or
 19 during the course of their employment, that additions, repairs,
 20 improvements, or changes be made and that safety devices and
 21 safeguards be furnished and used as required to satisfy the
 22 rules in the manner and within the time specified in the order.
 23 The order may also require that any driver of the motor vehicle
 24 satisfy the minimum standards for a driver under the this
 25 section or rules adopted pursuant to this section.

26 9. Access provided to department. An employer shall provide
 27 the department, or an agent or employee of the department, with
 28 access to the following:

29 a. A facility owned or controlled by the employer, for the
 30 purpose of determining compliance with this section.

31 b. Records related to an accident involving a vehicle owned
 32 or operated by the employer.

33 ~~6.~~ 10. Penalty.

34 a. Violation Except as otherwise provided, a violation by
 35 the owner of a motor vehicle of this section, a rule adopted

1 under this section, or an order issued under subsection 5
2 8, or willful failure to comply with such an order is, upon
3 conviction, subject to a schedule "one" penalty as provided
4 under section 327C.5.

5 b. A violation of subsection 5, or rules adopted pursuant to
6 subsection 5, by a railroad worker transportation company or a
7 railroad corporation is punishable as a schedule "one" penalty
8 under section 327C.5.

9 c. A railroad worker transportation company or a railroad
10 corporation that violates this section or a rule adopted
11 pursuant to this section may be subject to a civil penalty not
12 to exceed two thousand dollars in addition to any other penalty
13 provided by law.

14 d. Each violation of this section or a rule adopted pursuant
15 to this section constitutes a separate and distinct offense,
16 and for violations of a continuing nature, each day that a
17 violation continues constitutes a separate offense.

18 Sec. 3. Section 805.8A, subsection 13, paragraph b, Code
19 2013, is amended to read as follows:

20 b. For a violation under section 321.449, or 321.449A, the
21 scheduled fine is fifty dollars.

22 EXPLANATION

23 This bill contains provisions relating to companies
24 that operate motor vehicles and employ drivers for the
25 transportation of railroad workers.

26 Under the bill, the term "employer" means a person engaged
27 in a business affecting interstate commerce who owns or leases
28 a commercial motor vehicle or assigns employees to operate
29 a commercial motor vehicle, including a railroad worker
30 transportation company. The term "employee" refers to a driver
31 who performs a service for a railroad worker transportation
32 company, either for wages or as an independent contractor.

33 The bill requires an employer to provide for annual
34 inspection of the employer's motor vehicles by a qualified
35 person. In addition, each employee who drives a motor vehicle

1 must complete a daily written vehicle report. An employer is
2 also required to establish a maintenance and repair program
3 that includes weekly inspection of each motor vehicle, with a
4 focus on cleanliness and the condition of vehicle parts and
5 accessories specified in the bill. An employer is required to
6 maintain records relating to vehicle maintenance and repair for
7 one year, or for a vehicle no longer in the employer's control,
8 for six months.

9 The bill provides that a person who drives a motor vehicle
10 transporting railroad workers is subject to hours-of-service
11 restrictions similar to those that apply to commercial
12 vehicle operators. The bill prohibits a driver from driving
13 for more than 10 hours following eight consecutive hours of
14 uninterrupted rest; prohibits driving such a motor vehicle
15 for any period after having been on duty for 15 hours
16 following eight consecutive hours of uninterrupted rest; and
17 prohibits accepting a call for service during a period of
18 uninterrupted rest. The bill provides detailed definitions
19 of "on duty" and "uninterrupted rest". A driver who violates
20 the hours-of-service restrictions commits a simple misdemeanor
21 punishable by a scheduled fine of \$50. This is the same
22 penalty that currently applies for hours-of-service violations
23 by commercial vehicle operators.

24 The bill prohibits an employer from requiring a driver to
25 operate a motor vehicle in violation of the hours-of-service
26 requirements established under the bill. An employer may
27 require a period of uninterrupted rest at any time and must
28 clearly communicate to a driver when a period of uninterrupted
29 rest is to begin.

30 The bill requires an employer to maintain a driver
31 qualification file for each employee that includes specified
32 documentation relating to the employee's driving record
33 and employment record. The bill states that an employee is
34 disqualified from driving for an employer if the driver is
35 convicted of two or more serious traffic violations committed

1 within three years in Iowa or in any other state. For purposes
2 of the bill, "serious violation" includes operating while
3 intoxicated, a seat belt violation, a violation of commercial
4 motor vehicle laws, speeding more than 15 miles per hour
5 over the limit, negligent homicide, using a motor vehicle in
6 commission of a felony, evading arrest, using a motor vehicle
7 to flee law enforcement, careless driving, prohibited passing,
8 unlawfully passing a school bus, failure to obey a traffic
9 control signal or device, driving while suspended, and driving
10 the wrong way on a one-way street.

11 The bill requires drivers to be tested for the presence of
12 alcohol and controlled substances as a condition of employment.
13 In addition, an employer is required to have a driver tested
14 for alcohol and controlled substances following an accident
15 occurring in the course of the driver's employment if the
16 accident involved the death of a person, or if the accident
17 resulted in bodily injury to a person or disabling damage to a
18 motor vehicle and the driver received a citation for a moving
19 violation. Grounds for disqualification of a driver include
20 a test result indicating an alcohol concentration above zero
21 or a controlled substance test result other than a verified
22 negative; refusing to provide a specimen for testing; or
23 adulteration, dilution, or substitution of a specimen.

24 The bill requires an employer to maintain financial
25 liability coverage in the amount of \$1 million per person, up
26 to a maximum of \$5 million per motor vehicle owned or operated
27 by the employer and uninsured or underinsured motorist coverage
28 in the amount of \$1 million per motor vehicle occupant, up to a
29 maximum of \$5 million per motor vehicle.

30 The bill requires an employer to provide the department of
31 transportation with access to the employer's facilities and to
32 records relating to accidents involving the employer's motor
33 vehicles.

34 Pursuant to current law, a violation of the provisions
35 relating to the transportation of railroad workers is

1 punishable by a schedule "one" penalty, which is a fine of
2 \$100. The bill provides that a schedule "one" penalty also
3 applies to a violation of the provisions relating to rest
4 periods for drivers by a railroad corporation or a railroad
5 worker transportation company. The bill also allows an
6 additional civil penalty of up to \$2,000 to be imposed for
7 any violation of the provisions of the bill by a railroad
8 corporation or a railroad worker transportation company. Each
9 violation of the provisions relating to the transportation of
10 railroad workers constitutes a separate and distinct offense,
11 and for violations of a continuing nature, each day that a
12 violation continues constitutes a separate offense.